

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

Zywave, Inc.,  
Plaintiff,

v.

Travelers Excess and Surplus Lines  
Company,  
Defendant.

Case No. 2:24-cv-01255-WLH-PDx

**STIPULATED PROTECTIVE  
ORDER**

(PD Version)

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**1. INTRODUCTION**

**1.1 PURPOSES AND LIMITATIONS**

Discovery in this action is likely to involve production of confidential, proprietary or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth

1 in Section 12.3, below, that this Stipulated Protective Order does not entitle them to  
2 file confidential information under seal; Civil Local Rule 79-5 sets forth the  
3 procedures that must be followed and the standards that will be applied when a party  
4 seeks permission from the court to file material under seal.

5 1.2 GOOD CAUSE STATEMENT

6 This is an insurance coverage case arising out of plaintiff Zywave Inc.'s  
7 ("Zywave") acquisition in November 2021 of ClarionDoor, Inc., a Santa Barbara  
8 based company, which was primarily in the business of selling software solutions to  
9 insurers to help them process quotes for policies. Defendant Travelers Excess and  
10 Surplus Lines Company ("Travelers") issued a Buyer-Side Representations and  
11 Warranties Insurance Policy (the "Policy") to Zywave in connection with the  
12 ClarionDoor acquisition. Zywave submitted a Claim Notice under the Policy on  
13 November 29, 2022. Anticipated discovery in this action will involve the  
14 production of documents relating to acquisition of ClarionDoor, which will include  
15 documents containing non-public, sensitive financial and proprietary information  
16 relating to ClarionDoor's revenue, costs and expenses, intellectual property, client  
17 lists, client contracts and performance data, employee information, the underwriting  
18 of the purchase price for ClarionDoor, information regarding ClarionDoor's and  
19 Zywave's marketplace decisions and strategies, and other trade secret and  
20 confidential research, development, pricing, marketing or other commercial  
21 information, as is contemplated by Federal Rule of Civil Procedure 26(c)(1)(G).  
22 Zywave contends that disclosure of such sensitive, confidential and proprietary  
23 information to Zywave's competitors could cause Zywave harm in its insurance  
24 software business. Accordingly, good cause exists for the entry of a protective  
25 order.

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2. DEFINITIONS

2.1 Action: this above captioned lawsuit.

2.2 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.3 “CONFIDENTIAL” Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their support staff).

2.5 Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

2.6 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.

2.7 Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this Action.

2.8 House Counsel: attorneys who are employees of a party to this Action, including their support staff. House Counsel does not include Outside Counsel of Record or any other outside counsel.

2.9 Non-Party: any natural person, partnership, corporation, association, or other legal entity not named as a Party to this action.

2.10 Outside Counsel of Record: attorneys who are not employees of a party to this Action but are retained to represent or advise a party to this Action and

1 have appeared in this Action on behalf of that party or are affiliated with a law firm  
2 which has appeared on behalf of that party and includes support staff.

3 2.11 Party: any party to this Action, including all of its officers, directors,  
4 employees, consultants, retained experts, and Outside Counsel of Record (and their  
5 support staffs).

6 2.12 Producing Party: a Party or Non-Party that produces Disclosure or  
7 Discovery Material in this Action.

8 2.13 Professional Vendors: persons or entities that provide litigation  
9 support services (e.g., photocopying, videotaping, translating, preparing exhibits or  
10 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
11 and their employees and subcontractors.

12 2.14 Protected Material: any Disclosure or Discovery Material that is  
13 designated as “CONFIDENTIAL.”

14 2.15 Receiving Party: a Party that receives Disclosure or Discovery  
15 Material from a Producing Party.

16 3. SCOPE

17 The protections conferred by this Stipulation and Order cover not only  
18 Protected Material (as defined above), but also (1) any information copied or  
19 extracted from Protected Material; (2) all copies, excerpts, summaries, or  
20 compilations of Protected Material; and (3) any testimony, conversations, or  
21 presentations by Parties or their Counsel that might reveal Protected Material.

22 Any use of Protected Material at trial will be governed by the orders of the  
23 trial judge. This Order does not govern the use of Protected Material at trial.

24 4. DURATION

25 Even after final disposition of this litigation, the confidentiality obligations  
26 imposed by this Order will remain in effect until a Designating Party agrees  
27 otherwise in writing or a court order otherwise directs. Final disposition will be  
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1 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with  
2 or without prejudice; and (2) final judgment herein after the completion and  
3 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,  
4 including the time limits for filing any motions or applications for extension of time  
5 pursuant to applicable law.

6 5. DESIGNATING PROTECTED MATERIAL

7 5.1 Exercise of Restraint and Care in Designating Material for Protection.

8 Each Party or Non-Party that designates information or items for protection under  
9 this Order must take care to limit any such designation to specific material that  
10 qualifies under the appropriate standards. The Designating Party must designate for  
11 protection only those parts of material, documents, items, or oral or written  
12 communications that qualify so that other portions of the material, documents,  
13 items, or communications for which protection is not warranted are not swept  
14 unjustifiably within the ambit of this Order.

15 Mass, indiscriminate, or routinized designations are prohibited. Designations  
16 that are shown to be clearly unjustified or that have been made for an improper  
17 purpose (e.g., to unnecessarily encumber the case development process or to impose  
18 unnecessary expenses and burdens on other parties) may expose the Designating  
19 Party to sanctions.

20 If it comes to a Designating Party's attention that information or items that it  
21 designated for protection do not qualify for protection, that Designating Party must  
22 promptly notify all other Parties that it is withdrawing the inapplicable designation.

23 5.2 Manner and Timing of Designations. Except as otherwise provided in  
24 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise  
25 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection  
26 under this Order must be clearly so designated before the material is disclosed or  
27 produced.

1 Designation in conformity with this Order requires:

2 (a) for information in documentary form (e.g., paper or electronic documents,  
3 but excluding transcripts of depositions or other pretrial or trial proceedings), that  
4 the Producing Party affix at a minimum, the legend “CONFIDENTIAL” (hereinafter  
5 “CONFIDENTIAL legend”), to each page that contains protected material. If only a  
6 portion or portions of the material on a page qualifies for protection, the Producing  
7 Party also must clearly identify the protected portion(s) (e.g., by making appropriate  
8 markings in the margins).

9 A Party or Non-Party that makes original documents available for  
10 inspection need not designate them for protection until after the inspecting Party has  
11 indicated which documents it would like copied and produced. During the  
12 inspection and before the designation, all of the material made available for  
13 inspection will be deemed “CONFIDENTIAL.” After the inspecting Party has  
14 identified the documents it wants copied and produced, the Producing Party must  
15 determine which documents, or portions thereof, qualify for protection under this  
16 Order. Then, before producing the specified documents, the Producing Party must  
17 affix the “CONFIDENTIAL legend” to each page that contains Protected Material.  
18 If only a portion or portions of the material on a page qualifies for protection, the  
19 Producing Party also must clearly identify the protected portion(s) (e.g., by making  
20 appropriate markings in the margins).

21 (b) for testimony given in depositions that the Designating Party identify the  
22 Disclosure or Discovery Material on the record, before the close of the deposition all  
23 protected testimony.

24 (c) for information produced in some form other than documentary and for  
25 any other tangible items, that the Producing Party affix in a prominent place on the  
26 exterior of the container or containers in which the information is stored the legend  
27 “CONFIDENTIAL.” If only a portion or portions of the information warrants  
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1 protection, the Producing Party, to the extent practicable, will identify the protected  
2 portion(s).

3 5.3 Inadvertent Failures to Designate. If timely corrected within thirty (30)  
4 days, an inadvertent failure to designate qualified information or items does not,  
5 standing alone, waive the Designating Party's right to secure protection under this  
6 Order for such material. Upon timely correction of a designation, the Receiving  
7 Party must make reasonable efforts to assure that the material is treated in  
8 accordance with the provisions of this Order.

9 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

10 6.1 Timing of Challenges. Any Party or Non-Party may challenge a  
11 designation of confidentiality at any time that is consistent with the Court's  
12 Scheduling Order.

13 6.2 Meet and Confer. The Challenging Party will initiate the dispute  
14 resolution process (and, if necessary, file a discovery motion) under Local Rule 37.1  
15 et seq.

16 6.3 The burden of persuasion in any such challenge proceeding will be on  
17 the Designating Party. Frivolous challenges, and those made for an improper  
18 purpose (e.g., to harass or impose unnecessary expenses and burdens on other  
19 parties) may expose the Challenging Party to sanctions. Unless the Designating  
20 Party has waived or withdrawn the confidentiality designation, all parties will  
21 continue to afford the material in question the level of protection to which it is  
22 entitled under the Producing Party's designation until the Court rules on the  
23 challenge.

24 7. ACCESS TO AND USE OF PROTECTED MATERIAL

25 7.1 Basic Principles. A Receiving Party may use Protected Material that is  
26 disclosed or produced by another Party or by a Non-Party in connection with this  
27 Action only for prosecuting, defending, or attempting to settle this Action. Such  
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Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the Action has been terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL DISPOSITION).

Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order.

7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated “CONFIDENTIAL” only to:

(a) the Receiving Party’s Outside Counsel of Record in this Action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this Action;

(b) the officers, directors, and employees (including House Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this Action;

(c) agents, brokers, co-insurers, reinsurers or service providers of the Receiving Party to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(d) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(e) the Court and its personnel;

(f) court reporters and their staff;

(g) professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);



1 (h) the author or recipient of a document containing the information or a  
2 custodian or other person who otherwise possessed or knew the information;

3 (i) during their depositions, witnesses and attorneys for witnesses, in the  
4 Action to whom disclosure is reasonably necessary provided: (1) the deposing party  
5 requests that the witness sign the form attached as Exhibit A hereto; and (2) they  
6 will not be permitted to keep any confidential information unless they sign the  
7 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise  
8 agreed by the Designating Party or ordered by the court. Pages of transcribed  
9 deposition testimony or exhibits to depositions that reveal Protected Material may  
10 be separately bound by the court reporter and may not be disclosed to anyone except  
11 as permitted under this Stipulated Protective Order; and

12 (j) any mediator or settlement officer, and their supporting personnel,  
13 mutually agreed upon by any of the parties engaged in settlement discussions.

14 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED  
15 IN OTHER LITIGATION

16 If a Party is served with a subpoena or a court order issued in other litigation  
17 that compels disclosure of any information or items designated in this Action as  
18 “CONFIDENTIAL,” that Party must:

19 (a) promptly notify in writing the Designating Party. Such notification  
20 will include a copy of the subpoena or court order;

21 (b) promptly notify in writing the party who caused the subpoena or order  
22 to issue in the other litigation that some or all of the material covered by the  
23 subpoena or order is subject to this Protective Order. Such notification will include  
24 a copy of this Stipulated Protective Order; and

25 (c) cooperate with respect to all reasonable procedures sought to be  
26 pursued by the Designating Party whose Protected Material may be affected.

1 If the Designating Party timely seeks a protective order in such other  
2 litigation, the Party served with the subpoena or court order will not produce any  
3 information designated in this action as “CONFIDENTIAL” before a determination  
4 by the court from which the subpoena or order issued, unless the Party has obtained  
5 the Designating Party’s permission. The Designating Party will bear the burden and  
6 expense of seeking protection in that court of its confidential material and nothing in  
7 these provisions should be construed as authorizing or encouraging a Receiving  
8 Party in this Action to disobey a lawful directive from another court.

9 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE  
10 PRODUCED IN THIS LITIGATION

11 (a) The terms of this Order are applicable to information produced by a  
12 Non-Party in this Action and designated as “CONFIDENTIAL.” Such information  
13 produced by Non-Parties in connection with this litigation is protected by the  
14 remedies and relief provided by this Order. Nothing in these provisions should be  
15 construed as prohibiting a Non-Party from seeking additional protections.

16 (b) In the event that a Party is required, by a valid discovery request, to  
17 produce a Non-Party’s confidential information in its possession, and the Party is  
18 subject to an agreement with the Non-Party not to produce the Non-Party’s  
19 confidential information, then the Party will:

20 (1) promptly notify in writing the Requesting Party and the Non-Party  
21 that some or all of the information requested is subject to a confidentiality  
22 agreement with a Non-Party;

23 (2) promptly provide the Non-Party with a copy of the Stipulated  
24 Protective Order in this Action, the relevant discovery request(s), and a reasonably  
25 specific description of the information requested; and

26 (3) make the information requested available for inspection by the  
27 Non-Party, if requested.  
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(c) If the Non-Party fails to seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party will not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party will bear the burden and expense of seeking protection in this court of its Protected Material.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.

11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work

product protection, the parties may incorporate their agreement in the stipulated protective order submitted to the court.

12. MISCELLANEOUS

12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

12.3 Filing Protected Material. A Party that seeks to file under seal any Protected Material must comply with Civil Local Rule 79-5. Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue. If a Party's request to file Protected Material under seal is denied by the court, then the Receiving Party may file the information in the public record unless otherwise instructed by the court.

13. FINAL DISPOSITION

After the final disposition of this Action, as defined in paragraph 4, within 60 days of a written request by the Designating Party, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies,

abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Travelers is also entitled to retain as part of its claims file an archival copy, which may also include any other materials sent, received or otherwise obtained in connection with this action, even if such materials contain Protected Material. Travelers and its counsel will destroy all Protected Material pursuant to their retention guidelines. Any such archival copies that contain or constitute Protected Material will remain subject to this Protective Order as set forth in Section 4.

14. Any willful violation of this Order may be punished by civil or criminal contempt proceedings, financial or evidentiary sanctions, reference to disciplinary authorities, or other appropriate action at the discretion of the Court.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: August 21, 2024

GREENBERG GLUSKER LLP

By /s/ Jonathan B. Sokol

Jonathan B. Sokol

Attorney for Plaintiff Zywave, Inc

DATED: August 21, 2024

HOLLAND & KNIGHT LLP

By /s/ Andrew M. Cummings

Andrew M. Cummings

Attorneys for Defendant Travelers Excess  
and Surplus Lines Company

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: August 22, 2024



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HON. PATRICIA DONAHUE  
United States Magistrate Judge

ATTESTATION OF COUNSEL

Pursuant to Local Rule 5-4.3.4, I hereby attest that all other signatories listed, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the electronic filing of this document with their signature.

DATED: August 21, 2024

GREENBERG GLUSKER LLP

By /s/ Jonathan B. Sokol

Jonathan B. Sokol

Attorney for Plaintiff Zywave, Inc

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [full name], of \_\_\_\_\_ [full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Central District of California on [date] in the case of *Zywave, Inc. v. Travelers Excess and Surplus Lines Company*, Case No. 2:24-cv-01255-WLH-PDx. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint \_\_\_\_\_ [full name] of \_\_\_\_\_ [full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: \_\_\_\_\_

City and State where signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_